

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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AUG 29 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Federal-State Joint Board
on Universal Service

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CC Docket No. 96-45

PETITION FOR RECONSIDERATION OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") hereby respectfully requests that the Federal Communications Commission ("Commission") reconsider its Order on Reconsideration in the above-captioned docket.¹

In the Reconsideration Order, the Commission reviewed eligibility of schools and libraries to receive universal service support for contracts entered into after the date of the Federal-State Joint Board's initial Recommended Decision of November 8, 1996, but before the date of implementation of the competitive bidding rules preconditioning eligibility for universal service support. Clearing up some ambiguities, the Commission determined in the Reconsideration Order that contracts signed after November 8, 1996 would be eligible for universal service support as "existing contracts" under newly enacted Section 54.500(a)(2)(ii), but only if such contracts terminated on or before December 31, 1998.

U S WEST supports the Commission's decision to expand the definition of

¹ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order on Reconsideration, FCC 97-246, rel. July 10, 1997 ("Reconsideration Order").

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existing contracts to cover the hiatus between the Federal-State Joint Board's Recommended Decision and the implementation of the competitive bidding process. There is clearly no reason to penalize schools or libraries for contracting for telecommunications services during this time period. Congress certainly never intended assessment of such a penalty. However, there is no reason to penalize these same schools or libraries if the contracts they negotiated extend beyond December 31, 1998. Accordingly, we respectfully request that the Commission reconsider the Reconsideration Order and delete the time restriction currently in Section 54.500(a)(2)(ii). Instead, Section 54.500(a)(2)(i) should be the sole existing limiting paragraph, and should read: "was signed prior to the first date that the universal service competitive bidding system described in Section 54.504 is operational. The competitive bidding system will be deemed to be operational when both the universal service administrator is ready to accept and post requests for service from schools and libraries on a website and that website may be used by potential service providers."

The Commission, in adopting the rule precluding contracts which did not expire on or before December 31, 1998 from participating in the universal service support program for schools and libraries, was concerned that schools and libraries might otherwise use the period between November 8, 1996 and the initialization of the universal service fund website to avoid the competitive bidding process mandated by the Commission's rules as a prerequisite for universal service support. U S WEST supports the competitive environment which the Commission is seeking to advance, and which the competitive bidding system will aid. However, given the

manner in which school and library procurement operates, the assumption that schools and libraries will use this time period to avoid competitive procurement is not a valid one. In fact, in U S WEST's experience, schools and libraries routinely use cost-saving devices, including competitive bids, for procurement of telecommunications products and services. They also enhance their procurement savings by entering into contracts in excess of one year. Practically all of U S WEST's contracts for providing telecommunications services and products to schools and libraries are in excess of a year and comply with state contracting requirements including, where applicable, competitive bidding. The Reconsideration Order itself, while citing what is a legitimate general concern for the integrity of competitive bidding in the abstract, did not cite any evidence that schools and libraries would attempt to reverse their normal competitive procurement practices between November 8, 1996 and the effective date of the competitive bidding rules in order to avoid the Commission's competitive bidding process.

On the down side, the rule as currently stated creates a specific class of disadvantaged contracts ineligible to participate in a program for support of schools and libraries. Congress clearly did not intend to create such a disadvantaged class. Under the rules set forth in the Reconsideration Order, schools and libraries are offered the following hard (and unnecessary) choices: 1) terminate long-term contracts entered into after November 8, 1997 (with concomitant termination liability); 2) forego the benefits of long-term contracts for new contracts; or 3) forego universal service support. In the absence of actual evidence that schools and

libraries would seek to subvert the universal service fund itself, if these long-term contracts were eligible for universal support, it is not reasonable to create such a class of disadvantaged contracts.

Accordingly, we respectfully request that the Commission reconsider its rules regarding existing contracts as specified herein.

Respectfully submitted,

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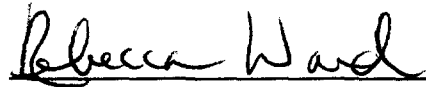
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August 29, 1997

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 29th day of August, 1997, I have caused a copy of the foregoing **PETITION FOR RECONSIDERATION OF U S WEST, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.



Rebecca Ward

***Served via hand-delivery**

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